

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTOLIN ANDREW MARKS,

Plaintiff,

v.

UNITED STATES OF AMERICA *et al.*,

Defendants.

Case No. C06-5696RBL

ORDER ADOPTING
REPORT AND
RECOMMENDATION

The Court, having reviewed the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the report and recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) Plaintiff's Motion to Stay, etc. [Dkt. #39] is **DENIED**.
- (2) The Court adopts the Report and Recommendation;
- (3) The United States of America is dismissed from this action. The United States of America enjoys sovereign immunity from Civil Rights and Bivens actions. Further, the plaintiff has not **PROPERLY** exhausted his administrative remedies under 28 U.S.C. § 2675(a.) with regard to filing a Federal Tort Claim. Filing a demand for payment in a grievance to detainee officials is does not satisfy the requirements of 28 U.S.C. 2675 (a). The United States is dismissed form this action and all Federal Tort Claims are **DISMISSED WITHOUT PREJUDICE**.

(4) Michael Melendez In his official capacity is **DISMISSED WITHOUT PREJUDICE**. The court notes he is not named in his individual capacity.

(5) The defendants motion for an injunction preventing plaintiff from filing any future actions is **DENIED WITHOUT PREJUDICE**. The request is premature and overly broad.

(6) The remaining defendants in this action are:

1. G. Wigen.
2. Charles Mc Burney.
3. Bill Mc Hatton, Compliance Officer.
4. Doe Portillo.
5. Doe Housden

(Dkt. # 8, page 1).

(7) The clerk's office is directed to send copies of this order to plaintiff, counsel for defendants and to the Hon. J. Kelley Arnold.

DATED this 19th day of October, 2007.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE